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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,925	01/02/2001	Dauna R. Williams	1906-001A	1241

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EXAMINER	
ALVAREZ, RAQUEL	

ART UNIT	PAPER NUMBER
3688	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/752,925	WILLIAMS, DAUNA R.	
	Examiner	Art Unit	
	Raquel Alvarez	3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 March 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *18-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *18-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date. _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to communication filed on 3/7/2008.

2. Claims 18-34 are presented for examination.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 18-20 and 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Trewitt et al. (6,134,531).

With respect to claim 18, Trewitt teaches a computer system for gathering data to be used in scripting, directing, writing, or producing a show (Abstract).

means for sending an electronic query to a member of a test audience, wherein said query elicits an electronic feed back message (see Figure 5) and means for electronically transmitting data comprising said feedback message, wherein said data is electronically analyzed and utilized in development of said show (col. 1, lines 21-28 and col. 2, lines 16-22).

With respect to claims 19, 20, Trewitt further teaches that the show comprises a television show (television program 111).

With respect to claims 23-24, Trewitt further teaches that said transmitting and receiving are performed via the Internet or via one or more viewer portals (see Figure 1).

With respect to claim 25, Trewitt further teaches that the data is transmitted to a broadcaster (see Figure 1, 110).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 21-22, 26, 28-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trewitt.

Claim 26 further recite that the feedback message is to be incorporated into the script of a show scheduled for broadcast within seven days. Trewitt teaches that the feedback messages are incorporated into the broadcast show. Trewitt is silent as to how long it takes for the user's feedback to be incorporated into the show. Incorporated the user's input within seven days will allow proper and ample of time for the show to be

edit with the new content. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included incorporating the user's input within 7 days in order to obtain the above mentioned advantage.

Claims 21-22 further recite structuring the queries into multi-tiered manner based on when a tier of questions can be incorporated into said story. Trewiit teaches structuring the responses to the user's input into said story. Trewitt doesn't specifically teach structuring the queries into a multi-tiered manner based on when a tier question can be incorporated into the story. Official notice is taken that it is old and well known to structure queries/questions in a multi-tiered manner based on when a tier questions is to incorporated. For example, based on the stage of when a new product or service, will be marketed different level of information is needed for the customers in order to fully develop the product/services. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included structuring the queries into multi-tiered manner based on when a tier of questions can be incorporated into said story in order to achieve the above mentioned advantage.

Claims 28-33 further recite that the query further comprises a prequel-mercial to gather feedback for initial episodes, to educate the audience about the show, promote the show, to provide portions of the storyline that are supportive of the show. Trewitt doesn't specifically teach that the questions/query comprises a prequel-mercial to gather feedback for initial episodes, to educate the audience about the show, promote

the show, to provide portions of the storyline that are supportive of the show. Official notice is taken that it is old and well known in TV shows to place commercials promoting responses to shows, educating the audience of the upcoming shows in order to promote the upcoming events. For example, previews of upcoming shows promote audience participation and viewership of the show, as well as educate and promote the show and shows the viewers mini-portions of the upcoming shows, the viewers feedback is measure by the viewership of the show. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included query of prequel-mercial to garner feedback for initial episodes, to educate the audience about the show, promote the show, to provide portions of the storyline that are supportive of the show in order to obtain the above mentioned advantage.

Claim 34 further recites that the prequel-mercial comprises product placement advertisement within said storyline. Official notice is taken that it is old and well known in marketing to provide advertisements/information/products related to the information that the user is viewing. For example, certain websites will provide advertisements or the like based on the content of the web page that the user is viewing. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included prequel-mercial comprises product placement advertisement within said storyline in order to better target the product placements.

Response to Arguments

6. Applicant's arguments filed 3/7/2008 have been fully considered but they are not persuasive.

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a show that has not yet been broadcast) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Examiner wants to point out that the claims read "said data is electronically analyzed and utilized in **development of said show**" the claims do not specify if the "show" if is a future show or for an ongoing show.

8. Applicant argues that Trewitt doesn't teach a television, online situational comedies, episodic shows or soap operas. The Examiner wants to point out that since the claims call for a television **or** online situational comedies, episodic shows or soap operas, only one has to be found to meet the claim limitation.

9. The claims are rejected 18-20 and 23-25 are rejected under 102(e) instead of 102(a), the previous 102(a) rejection was a typo and the Examiner has corrected paragraph 4 above.

10. With respect to claim 21, Applicant argues that Trewitt doesn't teach queries to be structured -not- the responses. The Examiner wants to point out that claim 21 was rejected under 103 and that Trewitt wasn't citing for teaching such limitation. Official Notice was taken to teach the limitation

11. With respect to the Official Notice taken, the Examiner wants to point out that the Examiner should not be obliged to spend time to produce documentary proof. If the knowledge is of such notorious character that official notice can be taken, it is sufficient to state so. See MPEP 2144.03.

12. In regards to claims 21-22, Applicant argues that marketing goods or services has no apparent connection with a multi-tiered plurality of queries whose responses are to be incorporated into a television (or other) show to be produced in the future, as required by claim 21, or with the "additional tier of such queries that can be immediately incorporated into a television show production" required by claim 22. The Examiner wants to point out that the example given of multi-tiered queries/questions for the purpose of structuring questions for marketing purposes doesn't have to be for the same purpose as Applicant's invention, since law of **obviousness does not require that references be combined for reasons contemplated by inventor**, but only looks to whether some motivation or suggestion to combine references is provided by prior art taken as whole. *In re Beattie,* 24 USPQ2d 1040 (CA FC 1992).

13. In regards to claims 28-33, Applicant argues that there is no apparent connection between the commercial advertising future show and the prequel-commercial claimed . The Examiner wants to point out that the law of **obviousness does not require that references be combined for reasons contemplated by inventor**, but only looks to whether some motivation or suggestion to combine references is provided by prior art taken as whole. *In re Beattie,* 24 USPQ2d

1040 (CA FC 1992).

14. Similarly, Applicant argues claim 34 which recites "product placement advertisement" The Examiner wants to point out that the law of **obviousness does not require that references be combined for reasons contemplated by inventor**, but only looks to whether some motivation or suggestion to combine references is provided by prior art taken as whole. *In re Beattie,* 24 USPQ2d 1040 (CA FC 1992).

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Point of contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/
Primary Examiner, Art Unit 3688

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Primary Examiner
Art Unit 3688

R.A.
5/13/2008